

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Angela Tizon	Team: Team # 7	CCRB Case #: 200412910	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 12/23/2004 5:22 PM	Location of Incident: inside TGI Friday's at § 87(2)(b) Manhattan		Precinct: 14	18 Mo. SOL 6/23/2006	EO SOL 6/23/2006
Date/Time CV Reported Fri, 12/24/2004 12:20 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/29/2004 1:20 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Eric Robinson	23972	934118	014 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM William Lanzisero	22326	933915	014 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Eric Robinson	Abuse: PO Eric Robinson refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
B.POM Eric Robinson	Abuse: PO Eric Robinson arrested § 87(2)(b)	§ 87(2)(b)
C.POM Eric Robinson	Force: Eric Robinson used physical force against § 87(2)(b) Harjaves.	§ 87(2)(b)

## Synopsis

On December 23, 2004 at approximately 5:30 pm, § 87(2)(b) and his friend § 87(2)(b) engaged in a dispute with a bartender and manager § 87(2)(b) inside TGI Friday's at § 87(2)(b) 8<sup>th</sup> Avenue in Manhattan. The police were called and PO Eric Robinson and PO William Lanzisero of the 14<sup>th</sup> Precinct responded to the location. § 87(2)(b) alleged that during his interaction with the officers, PO Robinson refused to provide his name and shield number. He also alleged that PO Robinson arrested him in retaliation, and that when he did, he used excessive physical force causing contusions on his shoulder.

§ 87(2)(g) [REDACTED]  
[REDACTED] § 87(2)(b) [REDACTED]  
[REDACTED] § 87(2)(b) [REDACTED]  
[REDACTED] § 87(2)(b) [REDACTED]  
[REDACTED] § 87(2)(b) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] § 87(2)(b) [REDACTED]  
[REDACTED]

### Summary of Complaint

§ 87(2)(b) filed this complaint with the CCRB on December 29, 2004. He was interviewed on January 19<sup>th</sup>, 2005.

On December 23, 2004 at approximately 5:30 pm, § 87(2)(b) and his friend § 87(2)(b) got into a dispute with TGIF manager § 87(2)(b) and a bartender inside TGI Friday's at 34<sup>th</sup> Street and 8<sup>th</sup> Avenue in Manhattan. The dispute was over the bill, which the bartender claimed they did not pay. § 87(2)(b) argued with § 87(2)(b) stating that he had paid, and § 87(2)(b) informed him that he was calling the police. § 87(2)(b) then argued with the bartender over the same matter.

PO Robinson (whose name § 87(2)(b) read off of his nameplate and provided to the investigation) responded to the location with his partner, later identified as PO Lanzisero. PO Robinson told everyone to be quiet. PO Lanzisero spoke to the bartender about what happened, and PO Robinson spoke to § 87(2)(b) to get his version of the story. PO Robinson then told § 87(2)(b) that he would have to pay the outstanding bill or he would be arrested. § 87(2)(b) refused, and PO Robinson repeated his options. § 87(2)(b) agreed to pay the bill.

PO Robinson, PO Lanzisero, § 87(2)(b) and § 87(2)(b) walked downstairs and § 87(2)(b) began to walk out of the restaurant when PO Robinson waved him back inside. § 87(2)(b) went back in and PO Robinson tried to explain to him that the reason they had been made to pay is because there was no way to check if they had paid. § 87(2)(b) was not interested and stated that he wanted to know PO Robinson's name and badge number. PO Robinson told him to shut up and waved his finger in his face. § 87(2)(b) argued with PO Robinson, but was calm and did not raise his voice. He stated that he may have "pissed off" PO Robinson because he seemed calm and, "too smart for my own good." PO Robinson told § 87(2)(b) "if you say anything else I'm going to arrest you." § 87(2)(g) § 87(2)(b) asked him again for his name and shield, and PO Robinson responded "that's it" and grabbed him by the shoulder and chest area, turned him around and slammed him face-first against the wall of the restaurant lobby and handcuffed him. The lobby was approximately 6 ft. by 8ft. large. There were stairs nearby leading up to the restaurant area, on which many people were watching the incident.

PO Robinson put § 87(2)(b) in the police vehicle and took him to the precinct. § 87(2)(b) was later released with a summons for disorderly conduct. § 87(2)(b) stated that he had contusions on his shoulder and shoulder pain, and when he went to the precinct the next day to file a complaint he requested medical attention. § 87(2)(b) was seen by EMS and transported to § 87(2)(b) in Manhattan.

## **Results of Investigation**

### **Civilian Interviews**

§ 87(2)(b) was interviewed at the CCRB as a witness on April 14, 2004. Alleged witness § 87(2)(b) (manager of TGI Friday's that was involved in the dispute) was not interviewed as he did not return the investigator's phone calls and did not cooperate with the investigation.

On December 23, 2004 at approximately 5:30 pm, § 87(2)(b) and § 87(2)(b) got into a dispute with manager § 87(2)(b) and a bartender at TGI Friday's at § 87(2)(b) in Manhattan. The bartender accused them of not paying their full bill, which they had, and the police were called to resolve the dispute. § 87(2)(b) admitted that he and § 87(2)(b) were getting boisterous and § 87(2)(b) was arguing loudly with the bartender.

Two officers, later identified as PO Robinson and his partner PO Lanzisero, arrived on the scene and told § 87(2)(b) and § 87(2)(b) to keep their voices down. The officers told them that they had to either pay for their drinks or be arrested. § 87(2)(b) paid the money and continued to argue with the bartender. PO Robinson and § 87(2)(b) argued over the matter, and were both hostile and did not listen to one another. Both officers led § 87(2)(b) and § 87(2)(b) downstairs. § 87(2)(b) and § 87(2)(b) went to walk out of the building and PO Robinson told them to come back and stated, "let me explain to you why I did this." § 87(2)(b) argued with PO Robinson that they had done nothing wrong, and § 87(2)(b) overheard § 87(2)(b) say something about his name and badge number. PO Robinson stated "shut up" and "that's it" and began to arrest § 87(2)(b). When pressed for details, § 87(2)(b) stated that he did not know what else, if anything § 87(2)(b) said to the officer, but he believes that PO Robinson decided to arrest § 87(2)(b) because he got fed up in trying to talk to him. PO Robinson told § 87(2)(b) "your friend's got a smart mouth."

PO Robinson grabbed § 87(2)(b) arm and pushed him against the wall and handcuffed him. PO Lanzisero assisted in handcuffing him. § 87(2)(b) stated that § 87(2)(b) did not resist arrest, but "did not want to put his hands behind his back right away," and kept them in front of him and asked what the officers were doing. It looked as though there was a struggle, and § 87(2)(b) felt that PO Robinson was "a bit forceful" when handcuffing § 87(2)(b) because he used force that an officer would use on someone that was resisting arrest. He did not state that PO Robinson slammed § 87(2)(b) against the wall. There were civilians standing around and watching the incident.

### **Officer Identification**

PO Robinson was identified from his nameplate which § 87(2)(b) read on the scene and then provided to the investigation. His tax number and name were verified on the summons issued § 87(2)(b). PO Lanzisero was identified from the roll call as being PO Robinson's partner at the time. Both officers acknowledge being on the scene and interacting with § 87(2)(b) and § 87(2)(b).

### **Officer Interviews**

PO Eric Robinson of the 14<sup>th</sup> Precinct was interviewed at the CCRB on May 19, 2005, and then again on July 14<sup>th</sup> when it was discovered that due to a tape malfunction, his interview was not recorded. PO William Lanzisero was interviewed on June 10<sup>th</sup>. § 87(2)(g)

PO Robinson recorded in his memobook that at 1700 hours he had a pick-up at TGI Friday's where a manager flagged down his police vehicle. He arrested § 87(2)(b) at 1722 hours for disorderly conduct and causing public disturbance and alarm. § 87(2)(b) was released at 1830 from the precinct with a C-summons for causing public alarm. PO Lanzisero had no memobook entries regarding the incident.

On December 23, 2004 at 5:30 pm, PO Robinson and PO Lanzisero were flagged down by a manager of TGI Friday's on § 87(2)(b) in Manhattan. The manager informed them that a couple of

customers were threatening people inside the bar and causing a disturbance. PO Robinson and PO Lanzisero went upstairs to the bar area and observed a dispute going on between § 87(2)(b), § 87(2)(b), a bartender and a manager. The dispute was over money, and the officers explained to both men that it was a civil matter, that they could write to TGIF headquarters if they wished, but the officers could not do anything about it. § 87(2)(b) wanted the cash register audited and PO Robinson explained that he could not do this. PO Robinson explained to § 87(2)(b) that he would be arrested for trespassing if he did not leave the restaurant. § 87(2)(b) was upset and kept arguing with PO Robinson. PO Robinson explained again that he would be arrested if he did not leave.

The officers escorted § 87(2)(b) and § 87(2)(b) downstairs to the lobby. According to PO Robinson, some of the TGIF staff followed behind them. PO Robinson attempted to explain again in the lobby to § 87(2)(b) what his options were, but § 87(2)(b) did not want to listen. He bolted out of the door but “it was raining so he came back in.” PO Robinson stated in response to this action, “that is what did it. That is the straw that broke the camel’s back.” § 87(2)(b) stated when he came back in, “no, you know what?” At this point PO Robinson stated, “that’s it” and arrested him. He stated earlier in his interview however, that at this point § 87(2)(b) and PO Robinson yelled back and forth. PO Lanzisero stated that there was no dispute between PO Robinson and § 87(2)(b) in the lobby. He also stated that when § 87(2)(b) came back inside he walked to the staircase to go back upstairs, but did not say anything. At this point the officers grabbed him and handcuffed him.

PO Robinson stated that it was becoming “quite a scene” in the lobby because people walking into the restaurant were clearly nervous when going past them. He also stated, “I had heard that same argument in 15 minutes a hundred times. It was like beating my head against a wall. So I put an end to it.” When asked if § 87(2)(b) voice was raised, PO Robinson stated that it was “animated.” When asked what § 87(2)(b) did that was disorderly, PO Robinson stated that he was causing public alarm causing a big scene, making people nervous and blocking the doorway. PO Lanzisero made no mention of a scene downstairs or § 87(2)(b) acting disorderly. He stated that there was no dispute downstairs.

PO Robinson arrested him by putting him against a wall and handcuffing him (this is how PO Robinson always makes arrests). According to both PO Robinson and PO Lanzisero, § 87(2)(b) never complained of pain and did not resist arrest. He was not completely compliant though, as he did not put his hands behind his back right away, and PO Robinson had to grab for them. PO Robinson also stated that he could have arrested § 87(2)(b) for several things, including trespassing for coming back inside the building, but he chose not to. PO Lanzisero stated that he and PO Robinson told § 87(2)(b) before that he would be arrested for trespassing if he came back inside the building. PO Lanzisero stated that § 87(2)(b) was not arrested for anything other than trespassing.

When asked whether § 87(2)(b) asked for his name and badge number when he came back inside the building, PO Robinson stated, “I believe he did.” He then stated that he was not sure if it was before he left the building or if it was when he came back inside. PO Robinson stated that he verbally stated his name and badge number, and that § 87(2)(b) asked for them again after he was arrested, and PO Robinson told him it would be on all of the paperwork. PO Lanzisero at first stated that he did not recall if § 87(2)(b) asked PO Robinson for his name and badge number, but then stated later in his interview that at no point on the scene did § 87(2)(b) ask for PO Robinson’s name and badge number. PO Lanzisero gave both their badge numbers to § 87(2)(b) at the precinct. PO Robinson released § 87(2)(b) at the precinct with a C-summons.

### **Medical Records**

The Ambulance Call Report states that § 87(2)(b) chief complaint was that his shoulder hurt, and the comments state that § 87(2)(b) had a small abrasion to the top of his shoulder. § 87(2)(b) was treated at § 87(2)(b) in Manhattan on § 87(2)(b) at § 87(2)(b). His medical chart shows that his chief complaint was “right shoulder pain sustained during assault” and his diagnosis was a contusion to his shoulder and an abrasion to his upper arm and shoulder. X-rays revealed no evidence of fracture or soft tissue swelling. § 87(2)(b) was given Ibuprofen and released.

## Police Documents

The Command Log shows that PO Robinson brought § 87(2)(b) as an arrest into the precinct at 5:40 pm, and that he was charged with disorderly conduct. The summons #§ 87(2)(b) issued to § 87(2)(b) shows that he was charged with disorderly conduct, PL 240.20. The Roll Call for the 14<sup>th</sup> Precinct shows that PO Robinson and PO Lanzisero were working together on the date of incident.

## Summons

§ 87(2)(b) provided to the investigation a letter in reference to his summons stating that the “NYPD has failed to file a legally acceptable accusatory instrument with this court. There is no need for you to return to court on the summons number referenced above.” The letter indicates that § 87(2)(b) case was dismissed.

## Complainant’s Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

## Officer’s CCRB History

PO Robinson has no prior substantiated CCRB allegations.

## Conclusions and Recommendations

### Undisputed Facts

It is not in dispute that § 87(2)(b) and § 87(2)(b) got into a verbal dispute with a manager and bartender at TGI Friday’s and that PO Robinson and PO Lanzisero responded to the scene. It is not in dispute that § 87(2)(b) was arrested and then released with a summons for disorderly conduct.

### Disputed Facts

§ 87(2)(g)

### Credibility Assessment

§ 87(2)(b), § 87(2)(g)

Both § 87(2)(b) and § 87(2)(b) stated that as they were walking out of the restaurant, PO Robinson waved them back inside and explained why he had to do what he did to end the dispute. § 87(2)(b) stated that at this point he asked for PO Robinson’s badge number, to which he responded “that’s it” and arrested him. § 87(2)(b) also stated that he overheard § 87(2)(b) ask for his badge number, after which he was arrested. Both § 87(2)(b) and § 87(2)(b) admit that § 87(2)(b) was arguing with PO Robinson at this point, and § 87(2)(b) stated that both were talking on top of each other and did not want to listen to one another. § 87(2)(b) specified that he did not raise his voice and stated that he did nothing disorderly. § 87(2)(b), § 87(2)(g)

PO Robinson stated that he told § 87(2)(b) that he would be arrested for trespassing and PO Lanzisero additionally stated that he would be arrested for trespassing specifically if he came back inside the building after leaving. Both PO Robinson and PO Lanzisero allege that § 87(2)(b) came back inside the building on his own accord, but PO Lanzisero stated that he came back in to go upstairs, while PO Robinson stated that he came back in because it was raining (suggesting that he had not returned to continue the dispute or disobey an order). § 87(2)(g)

While PO Robinson stated that at one point in the lobby he and § 87(2)(b) were arguing, PO Lanzisero stated that there was no dispute between § 87(2)(b) and PO Robinson in the lobby. Also, PO Robinson stated that it was becoming “quite a scene” in the lobby and that § 87(2)(b) was being disorderly by causing public alarm, making people nervous and blocking the doorway. Yet when asked if § 87(2)(b) voice was raised, PO Robinson stated that it was merely “animated.” PO Lanzisero made no mention of § 87(2)(b) being disorderly, and stated nothing about a scene in the lobby. According to PO Lanzisero, § 87(2)(b) was arrested for trespassing (more specifically for coming back inside the building), and for no other reason than this. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

PO Robinson admitted that the act of § 87(2)(b) coming back inside was “the straw that broke the camel’s back.” He stated, “I had heard that same argument in 15 minutes a hundred times. It was like beating my head against a wall. So I put an end to it.” § 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

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PO Robinson admitted at first that § 87(2)(b) asked for his name and badge number when § 87(2)(b) came back inside the building, but then stated that he was not sure when he asked, but that he verbally stated his name and badge. However, he also stated that § 87(2)(b) asked for his name and shield again after he was arrested, and that PO Robinson told him that it would be on all of the paperwork. § 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) alleges that PO Robinson used excessive force in arresting him by slamming him against the wall. Medical documents show that § 87(2)(b) had a minor bruise and scratch on his shoulder and upper arm, and § 87(2)(b) stated that the handcuffing looked “a bit forceful” as though PO Robinson was arresting someone who was resisting. However, § 87(2)(b) but did not state that § 87(2)(b) was slammed against the wall or that PO Robinson sustained injuries from it as § 87(2)(b) alleges. PO Robinson also admitted that he put § 87(2)(b) against the wall, which is how he normally makes arrests. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

### Determination of Fact

§ 87(2)(g)

#### **Allegation A: Abuse of Authority- PO Eric Robinson refused to provide his name and shield number to § 87(2)(b)**

According to Patrol Guide Procedure 203-09 entitled Public Contact, police officers are required to “courteously and clearly state your rank, name, shield number and command, or otherwise provide them, to anyone who requests you to do so.” § 87(2)(b), § 87(2)(g)

#### **Allegation B: Abuse of Authority- PO Eric Robinson arrested § 87(2)(b)**

According to Penal Law and Criminal Procedure Law of the state of New York, section 240.2 subsection 5, “a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: he obstructs vehicular or pedestrian traffic.” § 87(2)(b), § 87(2)(g)

#### **Allegation C: Force- PO Eric Robinson used physical force against § 87(2)(b)**

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: